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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/532,059	03/21/2000	Chester W. Williams	500695.01	6811

7590

07/16/2003

DALE C. BARR, ESQ.  
BLACK LOWE & GRAHAM  
816 SECOND AVENUE  
SEATTLE, WA 98104

EXAMINER

NGUYEN, CHI Q

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 07/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/532,059

Applicant(s)

WILLAMS, CHESTER W.

Examiner

Chi Q Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-7,18,19,24,25 and 30-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2, 4-7, 18-19, 24-25, 30-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 March 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/5/03 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Regarding claim 2, the phrase "may be" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

See MPEP § 2173.05(d).

### ***Claim Objections***

5. Claim 32 is objected to because of the following informalities: the applicant is advised to remove a dot after an ending period. Appropriate correction is required.

***Claim R ejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 2, 4-7, 18, 19, 24, 25, and 30-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hammond (US 5,921,046) in view of Ellison (US 5,881,524) and Berrenberg (US 4,879,855).

Hammond shows in figs. 1-3, and 9 a building block 10 having urethane foam core 12, cement coating 14 on the surfaces. The foam building block 10 is rectangular configuration, having at least one horizontal-extending void "HV", at least one vertically-extending void "VV" extending between the top and bottom surfaces of the block and at least one of the horizontally-extending voids "HV" extending between the side surfaces of the block 10, at least one of the horizontally-extending voids intersecting at least one of the vertically-extending voids, a facing bond 14 bonded to an exterior surface of the block 10 forming two facing pieces.

Hammond does not disclose expressly the voids being tapered along its length and a mesh material is embedded in the inwardly facing surface of the block.

Ellison teaches composite building system comprising a block 100 having two center cores/voids 102, two-end voids 106. Both center and end voids are tapered along its length. (See figs. 17-18, col. 10, and lines 59-63) and Berrenberg teaches attachment

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and reinforcement member for molded construction forms including a metal mesh 10 is embedded in the inwardly facing of the form 20 (see fig. 4).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Hammond's with Ellison's for the voids being tapered along its length and with Berrenberg for the mesh material embedded in the form of the block. The motivation for doing so would have been to provide advantages for the spacing and embedment of the reinforcement for the building wall system and also provide the building block more integrity.

With regards to claims 1 and 18, Hammond, Ellison and Berrenberg teach the structural elements for the building block except for the facing bonded to an exterior surface of the block *during* the molding, since the applicant's claims are drawn to apparatus claims, therefore examiner only considered the structures of the final product. Furthermore, the process of making limitations in the product claims cannot impart patentability to the product.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1, 2, 3-7, 18-19, 24, 25, 30-35 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. DeVore (US 5,8/02,793), Brisson (US 6,305,142), Guignon (US 2,269,018), Sachs (US 4,4038,798) teach building blocks.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chi Q. Nguyen whose telephone number is (703) 605-

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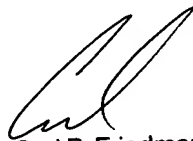
1224, Monday-Thursday (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (703) 308-0839. The fax number for the organization where this application or proceeding assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



CQN

7/11/03



Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600